IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 16603 of 2004

Between:

M/s Amrutha Granities, Kaspa Street, Srikakulam
rep. by its Proprietor, Mr. Ch.Srinivas Kumar.

..... PETITIONER

AND

1 The Commercial Tax Officer (FAC) Srikakulam Circle,
Srikakulam.
2 The Appellate Deputy Commissioner (CT), Visakhapatnam.
3 The Additional Commissioner (CT) Legal, Andhra Pradesh,
Nampally, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari or any other appropriate writ or order or direction quashing the order of the 3rd respondent in CCT's Ref:LV(3)/1340/04 dated 12.8.2004 as unreasonable, unjustified, arbitrary and consequently restrain the 1st Respondent from taking any coercive steps for collection of the balance disputed tax of Rs.1,48,175/- for the assessment year 1998-99 under the CST Act pending disposal of the appeal before the Sales Tax Appellate Tribunal.

Counsel for the Petitioner: KUM.K.UMA

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court made the following O R D E R:

(Per the Hon'ble Sri Justice Bilal Nazki).

Heard learned Counsel for the parties. With their consent, the Writ Petition is disposed of at this stage.

The controversy is that pending appeal, application for stay filed by the petitioner was dismissed by the competent authority. We have gone through the record and heard learned Counsel for the parties. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of 50 per cent of the disputed tax. Therefore, we set aside the order of the authority and direct that 50 per cent of the disputed tax shall be paid by the petitioner, within a period of six weeks. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within six weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal. However, if the petitioner has already paid any amount towards the disputed tax, while calculating the 50 per cent amount, the amount paid by the petitioner shall be given credit to.

The writ petition is accordingly disposed of. No costs.

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(BILAL NAZKI, J)

22nd September, 2004.

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(S.ANANDA REDDY, J)

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To

1 The Commercial Tax Officer (FAC) Srikakulam Circle, Srikakulam.
2 The Appellate Deputy Commissioner (CT), Visakhapatnam.
3 The Additional Commissioner (CT) Legal, Andhra Pradesh, Nampally, Hyderabad.

4 Two C.Cs to the G.P for Commercial Taxes, High Court of A.P.,

Hyderabad (OUT)

5 Two C.D copies